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## **Independent Examination of Nottinghamshire Minerals Local Plan**

### **Matters, Issues and Questions**

**By Nick Palmer BA (Hons) BPI MRTPI**

**An Inspector appointed by the Secretary of State**

**Date: 27 February 2020**

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#### **Introduction**

Following my initial examination of the Nottinghamshire Minerals Local Plan Publication Version and the supporting material I set out below the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new issues that arise.

In this note I shall pose questions of the Council that potentially go to matters of soundness or which concern representations made. In framing them I have had regard to the definition of soundness at paragraph 35 of the National Planning Policy Framework (the Framework) and to the principles of plan-making in paragraph 16 of the Framework.

I set out below my general and detailed comments and questions which should be addressed in hearing statements. Answers should be supported by reasons and section(s) of the supporting documents and evidence base should be referred to as appropriate. A separate document should be submitted in response to each Matter. The Council and all other participants should submit hearing statements to the Programme Officer by **17:00 on 15 April 2020**.

#### **A. Legal Compliance**

##### **Matter 1 – Duty to Co-operate and Legal Issues**

**Issue:** Whether the Plan complies with all relevant legal requirements, including the Duty to Co-operate.

## **Duty to Co-operate**

- 1 Please describe the processes used for engagement with other authorities and prescribed bodies and the frequency of any meetings or other means of engagement during the Plan preparation process.
- 2 Provide details of engagement with Natural England in preparing the Plan. In particular, what engagement has there been regarding potential impacts on European sites, the possible potential European site, nationally designated habitats and protected species?
- 3 Describe how the need for Sherwood Sandstone has been considered under the Duty to Co-operate.
- 4 Describe how the need for minerals other than aggregates (brick clay, gypsum, silica sand, industrial dolomite, building stone, coal, oil and gas) gypsum been considered under the Duty to Co-operate.

## **Conservation of Habitats and Species Regulations 2017**

- 5 I have written separately to the Council in respect of the requirements of the Habitats Regulations.

## **B. Soundness**

### **Matter 2 – Vision, strategic objectives and strategic policies**

**Issue:** Whether the vision, strategic objectives and strategic policies provide an appropriate basis for sustainable minerals development.

#### *Vision*

- 6 Please clarify the distinction between the terms 'mineral reserves' and mineral resources' in the context of the Vision and the document as a whole.

#### *Strategic Policies*

- 7 In paragraph 3.5, does the inclusion of the phrase "unless material considerations indicate otherwise" detract from the clear statement of policy in sub paragraphs (a) and (b) of that paragraph?

#### *Policy SP1: Minerals Provision*

- 8 Please explain how the Plan's policies prioritise the extension of existing sites in preference to new sites.

#### *Policy SP4: Sustainable Transport*

- 9 Having regard to the lack of rail heads in the county, how would use of rail be facilitated?
- 10 Please provide further information on the sustainability advantages of barge transport in comparison to road transport.
- 11 Should part 3 of the policy state that it applies to both operational and restoration phases of development?

- 12 Is there a distinction between parts 1 and 3 in this respect or could they be combined?

*Policy SP5: The Built, Historic and Natural Environment*

- 13 Is paragraph 3.54 consistent with national policy, in terms of referring to protection of "the most important" heritage assets?
- 14 In that paragraph, is "proportionate" balancing of need for the development against harm consistent with the Framework in terms of balancing harm against public benefits?

*Policy SP7: Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure*

- 15 The policy refers to safeguarding of associated minerals infrastructure and the supporting text states that wharfs are safeguarded, but concrete batching plants, coated roadstone and other minerals infrastructure are not safeguarded. Is the policy sufficiently clear and is there a conflict between what the policy says and paragraphs 3.89 and 3.90?
- 16 Please describe the justification for not safeguarding concrete batching plants, coated roadstone and other minerals infrastructure, with regard to paragraph 204 (e) of the Framework.
- 17 Is this policy fully consistent with the Vision and Strategic Objective 4?
- 18 Should the policy refer to the 'agent of change' principle as described in paragraph 182 of the Framework in terms of any requirement for mitigation measures?

**Matter 3 – Minerals Provision Policies**

**Issue:** Whether the minerals provision policies are positively prepared in terms of making adequate provision for minerals, whether they are consistent with national policy, justified and otherwise sound.

*Policy MP1: Aggregate Provision*

- 19 What are the likely reasons for aggregates sales in Nottinghamshire remaining subdued when sales nationally are increasing?
- 20 Given the proximity of quarries on both sides of the River Trent in Nottinghamshire and Lincolnshire, and changes in production on both sides of the river than can occur over time, does the identified need for sand and gravel adequately account for past and potential future changes?
- 21 Is the 3-year average sales figure for Sherwood sandstone sufficient to indicate an upward trend and would the provision in Policy MP1 be adequate if this were the case?
- 22 To what extent does the planned provision for aggregates account for potential future increases in demand arising from infrastructure projects?
- 23 To what extent does the planned provision for aggregates account for the predicted sharp rise in housing development in 2020/21?

- 24 To what extent does the planned provision allow for demand from the main urban areas of Nottingham, Mansfield and Newark?
- 25 How has the contribution of secondary and recycled aggregates to supply before considering extraction of primary materials been considered?
- 26 In the last sentence of paragraph 4.6, should the relationship of the National and Regional Guidelines to the Plan be explained further?
- 27 Should part 3 of Policy MP1 be subject to consideration of environmental, transport and other factors?

*Policy MP2: Sand and Gravel Provision*

- 28 What evidence source supports the remaining reserves in Policy MP2?
- 29 What are the reasons for the differences between these figures and the permitted reserves in the Local Aggregates Assessment?
- 30 At what volume has Misson Grey Sand historically been worked?
- 31 How would deduction of this affect the landbank for sand and gravel?
- 32 Which quarries is this obtained from?
- 33 In Policy MP2, should extraction of grey sand be subject to consideration of environmental, transport and other factors?

*Policy MP2p: Mill Hill nr Barton in Fabis*

- 34 Please provide an update on the situation regarding the submitted planning application.
- 35 Following on from this, are there any outstanding issues regarding the effect of the proposal on the Green Belt?

*Policy MP6: Brick Clay Provision*

- 36 Should part 2 of Policy MP6 be subject to consideration of environmental, transport and other factors?
- 37 There are no site development briefs in Appendix 2 for brick clay sites (as referred to in the last sentence of the policy).

*Policy MP7: Gypsum Provision*

- 38 Should part 2 of Policy MP7 be subject to consideration of environmental, transport and other factors?

*Policy MP8: Silica Sand Provision*

- 39 Should part 2 of Policy MP8 be subject to consideration of environmental, transport and other factors?

*Policy MP9: Industrial Dolomite Provision*

- 40 Should Policy MP9 require consideration of environmental, transport and other factors?

*Policy MP10: Building Stone Provision*

- 41 Should part 2 of Policy MP10 be subject to consideration of environmental, transport and other factors?

*Policy MP12: Oil and Gas*

42 Please comment on any implications for Policy MP12 arising from the judgement<sup>1</sup> that quashes paragraph 209(a) of the Framework.

**Matter 4 – Development Management Policies**

**Issue:** Whether the development management policies are consistent with national policy, effective and otherwise sound.

*Policy DM4: Protection and Enhancement of Biodiversity and Geodiversity*

43 Should “in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017” be added to paragraph 1(a) to ensure this is effective and consistent with national policy?

44 There is no provision in the Habitats Regulations for avoidance, mitigation and compensation, and as structured, part 2 of Policy DM4 could be interpreted as applying to development that may affect a European site under part 1 (a). Should it be made clear in the policy that part (2) does not apply to impacts on European sites considered under part 1 (a)?

*Policy DM6: Historic Environment*

45 The Archaeological Resource area at South Muskham does not appear to be shown on the Policies Map.

*Policy DM10: Airfield Safeguarding*

46 The policy refers to Netherthorpe Airfield but Plan 6 refers to Netherfield Airfield.

*Policy DM11: Planning Obligations*

47 There is no basis in national policy for the negotiated agreements between minerals operators and the community as referred to in paragraph 5.118. It seems to me that this text is not justified but I would be grateful for your reasoning on this point.

*Policy DM16: Associated Industrial Development*

48 Should this policy require consideration of environmental, transport and other factors?

**Matter 5 – Site Allocation Development Briefs**

**Issue:** Whether the Development Briefs are consistent with national policy, effective and otherwise sound.

49 Where the Briefs describe potential links to European sites, should the need for further investigation and the potential need for Appropriate Assessment be highlighted?

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<sup>1</sup> Claire Stephenson (Talk Fracking) v SSHCLG [2019] EWHC 2519 (admin)

- 50 In all cases a range of possible priority habitats is included. The following text in each Brief refers to 'target habitat(s)'. It is not clear what the target habitats are and further explanation of this should be provided.
- 51 Preferences are expressed for certain types of habitat and not for others but further explanation is needed as to how this relates to the list of priority habitats.
- 52 How do the restoration requirements relate to Policy SP2?

*MP2k: Bawtry Road West*

- 53 The Brief says that priority should be given to wetland/open habitats but also that it may be appropriate to expand the area of acid grassland on the adjacent former quarry. Is the restoration requirement sufficiently clear?
- 54 Should the penultimate sentence under 'Quarry Restoration say "...by creating similar habitats to those within the restoration..."
- 55 The inset map is not clear as to where Local Wildlife Sites (LWS) are, or the distinction between SSSIs and LWS.

*MP2l: Scrooby Thompson Land*

- 56 A range of priority habitats are listed including wet woodland and oak-birch woodland but the last paragraph states that priority should be given to wetland/open habitats rather than woodland.
- 57 Are the 2 listed buildings referred to in the first bullet Scrooby Top Farmhouse and Cottages as referred to in the 7<sup>th</sup> bullet under 'Environmental and cultural designations?
- 58 Should 'designated sites' be more specific? Are these the Mattersey Hill Marsh and River Idle Washlands SSSIs?
- 59 Is the requirement for screening for noise, dust or visual amenity?
- 60 What are the requirements in respect of nightjar, woodlark and potential indirect links to the SAC and ppSPA?
- 61 As the site is separate from MP3c, it is not clear how the road access would be obtained.

*MP2m: Scrooby North*

- 62 The Sustainability Appraisal (SA) states that effects on LWSs, the GeoSINC and SSSI are uncertain as no restoration details have been provided. Is there a need for assessment in this respect?
- 63 What are the 'designated sites'?
- 64 What are the requirements arising from nightjar, woodlark and potential indirect links to the SAC and ppSPA?
- 65 Would the means of access be separate from the existing site (MP3c)?
- 66 The SA refers to a need for noise and/or dust mitigation. Should this be a requirement?

*MP2n: Langford Lowfields North*

67 The SA refers to loss of some high-quality agricultural land. Should this be covered in the Brief?

68 Is screening of Westfield Farm for noise, dust or visual amenity?

*MP2o: Besthorpe East*

69 The SA refers to loss of some high-quality agricultural land. Should this be covered in the Brief?

70 Are any mitigation measures needed to protect residential amenity, e.g in terms of noise and dust?

*MP2p: Mill Hill near Barton in Fabis*

71 Should there be a requirement to restore soils?

72 Should the Brief include a requirement to consider effects on the Green Belt?

73 Are mitigation measures needed for residential amenity as mentioned in the SA?

*MP3d: Bestwood 2 North*

74 Paragraph 6.9 of the Habitats Regulations Assessment recommends either confirmation that the trees will be over 20 years old when the extension is developed, or if they are less than 20 years old, a survey is undertaken for nightjar and woodlark. If these species are nesting creation of a replacement habitat is required. Should these detailed requirements be stated? Is the requirement to consider historic records of nightjar and woodlark sufficient?

75 Should there be a requirement to consider effects on the Green Belt?

76 Is there a need for noise and dust mitigation for residential amenity?

*MP3e: Scrooby Top North*

77 Is there a need to require restoration of agricultural land?

78 Is there a need for noise and dust mitigation for residential amenity?

*MP7c: Bantycok Quarry South*

79 Is there a need to consider water quality?

80 Is there a need for noise and dust mitigation for residential amenity?

*Nick Palmer*

INSPECTOR